

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

**LEA ANN COVEY**

**Plaintiff,**

**v.**

**WAL-MART STORES EAST I, LP**

**Defendant.**

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**Case No. 4:16-CV-01262**

**DEFENDANT WALMART STORES EAST LP'S  
NOTICE OF REMOVAL**

Defendant Walmart Stores East LP, incorrectly named and served in this lawsuit as Wal-Mart Stores East I, LP, ("Walmart"), with full reservation of all defenses, objections, and exceptions, including but not limited to service, jurisdiction, venue, and statute of limitations, hereby removes the above-captioned matter from the Circuit Court of Ray County, Missouri to the United States District Court for the Western District of Missouri, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support thereof, Walmart states the following:

**THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED**

1. Plaintiff Lea Ann Covey ("Plaintiff") filed her lawsuit against Walmart in the Circuit Court of ray County, Missouri on or about September 7, 2016.
2. Walmart was served with process on November 3, 2016. Walmart has not yet answered Plaintiff's Petition.
3. As required by 28 U.S.C. § 1446(a), a copy of all records and proceedings from the Circuit Court of Ray County, Missouri are attached as Exhibit A.

4. This Notice of Removal is properly directed to this Court pursuant to 28 U.S.C. § 1446(a) as it is the United States District Court embracing the Circuit Court of Ray County, Missouri, where Plaintiff's Petition is currently pending. See 28 U.S.C. § 96.

5. Without waiving any objection to service, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because the same has been filed within thirty (30) days of service on Defendant.

6. Pursuant to 28 U.S.C. § 1446(d), Walmart files written notice of this removal with the Clerk of the Circuit Court of Ray County, Missouri, where Plaintiff's Petition is currently pending. A copy of this Notice of Removal and the written notice of the same have been served upon Plaintiff.

#### **COMPLETE DIVERSITY OF CITIZENSHIP EXISTS**

7. Upon information and belief, Plaintiff is a citizen of the State of Missouri. See Exhibit A, at ¶ 1.

8. Walmart Stores East, LP is a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. The sole member of WSE Management, LLC and WSE Investment, LLC is Walmart Stores East, LLC (f/k/a Walmart Stores East, Inc.), an Arkansas limited liability company whose parent company is Walmart Stores, Inc. The principal place of business for all entities mentioned is Bentonville, Arkansas. Accordingly, Walmart is a citizen of Delaware and Arkansas for the purposes of determining this Court's subject matter jurisdiction. See 28 U.S.C. § 1332(c).

#### **THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00**

9. Plaintiff has received medical treatment, the cost of which is identified as \$87,129.56 in Plaintiff's Petition. Exhibit A, Petition at ¶ 8. Plaintiff also alleges that she

suffered “a severe, painful, permanent and disabling injury to her right shoulder, including a right torn rotator cuff.” Exhibit A, Petition at ¶ 7.

WHEREFORE, for the foregoing reasons, Defendant Walmart Stores East LP removes this action from the Circuit Court of Ray County, Missouri to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted,

**BAKER STERCHI COWDEN & RICE, LLC**

*/s/ James R. Jarrow*

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ATTORNEYS FOR DEFENDANT

WAL-MART STORES EAST I, LP

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed using the Court's CM/ECF system on this 1<sup>st</sup> day of December 2016, and a copy was served via U.S. Mail, postage prepaid, to the following counsel:

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ATTORNEYS FOR PLAINTIFF

/s/ James R. Jarrow

ATTORNEY FOR DEFENDANT  
WAL-MART STORES EAST I, LP